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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Written statement submitted by the International League for the Rights and Liberation of Peoples, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[15 January 1991]

CONCLUSIONS OF THE SESSION OF THE PERMANENT PEOPLE'S TRIBUNAL ON BRAZILIAN AMAZONIA (PARIS, 12-16 OCTOBER 1990) - II.

Overall ecological effects of the destruction of tropical forests

1. Firstly, Amazonia is of crucial importance for atmospheric conditions and for the stability of the world climate. Secondly, the ecological balance of tropical forests in general - and of Amazonia in particular - is very delicate, so that small-scale and apparently insignificant damage can have very serious long-term consequences; it has only recently been realised that the "robust green hell" of Amazonia rests on an extremely fragile ecosystem. Thirdly, strategies for the occupation and development of Amazonia are relatively harmful in that they normally do not take account of its ecological fragility. Fourthly, they take no account of the fact that Amazonia is not, to quote

President Medici (1970) "a land without human beings for human beings without land", so that the way in which Amazonia is being developed is threatening the right to life of the indigenous populations of the region.

A. Proposals addressed to the Brazilian authorities

2. All the Brazilian authorities are duty bound to guarantee the Indians' immediate and full enjoyment, as explicitly provided for in the Constitution, of all the fundamental rights which, under articles 1 and 5, are immediately due to them.

3. The Federal Government should immediately implement the provisions of the Indian Statute (Act No. 6001 of 1973), which provides for the formation of an Indigenous Policy Council, which must include representatives of the population in general and of the Indians in particular.

4. The Federal Government of Brazil should discharge its obligation under the Constitution to demarcate indigenous land with the co-operation of the communities concerned. Failure to meet that obligation cannot be justified on the grounds of lack of financing, which was the pretext used at the time of the occupation of indigenous land.

5. All indigenous groups must be guaranteed the exclusive use of land which they have traditionally occupied and the intrinsic nature of the right of occupation provided for in article 231 of the Constitution must be observed.

6. The Federal Government of Brazil should immediately revoke decrees and other administrative measures designed to reduce the Yanomami territory to 19 completely isolated pockets. This unconstitutional measure deprives the Yanomami of a large portion of the land which they have traditionally occupied. Moreover, it has been one of the main causes of the introduction of disease, the poisoning of rivers and the loss of food reserves, thus provoking the physical and cultural decline of the Yanomami and increasing their mortality rate.

7. The Brazilian federal and State authorities should take the necessary steps to ensure the effective implementation of court decisions on the rights of Indians for the proper protection of those rights and with due regard for the independence and prestige of the judiciary, which is essential for the peaceful settlement of disputes.

8. The Brazilian federal authorities should effectively guarantee minimum working conditions for all forest workers, necessary for the dignity of the individual, in accordance with the provisions of domestic legislation and the rules of international conventions incorporated into Brazilian positive law, specifically ILO Conventions 95, 105 and 170.

9. The Office of the Federal Public Prosecutor of Brazil should see to it that all those who directly or indirectly, by force of arms and through other acts or omissions, particularly the murder of trade-union leaders, commit crimes against the free organization of labour guaranteed by the Brazilian Constitution and by the International Covenants to which Brazil has acceded are brought to justice.

10. The Brazilian Federal Executive Power should secure effective and adequate means to enable the Public Prosecutor to introduce rapidly and with adequate resources the control of practices infringing the rights of all persons, the specific rights of Indians and labour's freedom of association by invoking the civil, administrative and criminal responsibility of those guilty of abuses.

11. The Brazilian Federal and State Executive Powers and public prosecutors should ensure the effective and rapid punishment of persons who are directly or indirectly responsible for genocide-like acts, such as those which have resulted in the rapid deaths of a large number of Yanomamis and members of other Indian groups.

12. The Brazilian Federal Executive should, without delay and after consultation of the communities involved, submit to the National Congress all authorizations already granted for exploration and exploitation of Indian lands, in accordance with the express provisions of the Brazilian Constitution, bearing in mind that the provisions of the Constitution must be implemented immediately and that rights acquired earlier which are incompatible with the requirements of the new Constitution cannot be upheld.

13. The Federal Legislative and Executive Powers of Brazil should enact legislation and take the necessary action to prohibit procedures and methods for the exploitation of the soil and subsoil which result in serious damage to the environment and to the genetic heritage of mankind, including the pollution of water with mercury, the destruction of forests and the extermination of animal and plant species.

14. All Brazilian governmental bodies should, as a matter of urgency and with technical support, conduct widely publicized pre-evaluations of projects liable to undermine the fundamental rights guaranteed by the Constitution and by the international norms incorporated into Brazilian positive law, as well as of projects likely to have damaging effects on the environment.

15. Universal support and encouragement should be given to continuing action by the organizations representing society in general and by members of the Brazilian National Congress to prevent international financing agencies from obtaining resources for the implementation of projects without pre-evaluation, and wide publicity should be given to the effects on society and the environment.

16. The Brazilian Federal Executive and companies operating in Brazil should, in exploiting the resources of Amazonia, provide for the permanent settlement of populations in decent housing and working conditions, with guarantees of the proper observance of all fundamental rights and the safeguarding of special cultural characteristics of each group, as well as a fair share in the economic and social benefits of their work.

17. The exploitation of the resources of Amazonia should in all cases provide for the renewal or substitution of natural resources, and preference should be given to forms of exploitation which do not disregard the characteristics of the region and its populations and ensure permanent employment for the largest possible number of people.

18. No State may participate in the destruction of the ecological and cultural heritage of Amazonia, either by financing harmful activities or by assisting in them or by authorizing the importation of substances liable to be seriously detrimental to the health of the inhabitants or to the ecological heritage of Amazonia.

19. Universities, research institutes and agencies financing scientific research in Brazil should lend their full support to efforts to understand and disseminate Indian cultures, particularly concerning the relationship between Indians and nature.

B. Proposals addressed to the international community

20. Amazonia belongs to Brazil. Nevertheless, mankind as a whole benefits from its role in maintaining the ecological balance. Consequently, the richest countries, whose responsibility in the destruction of this heritage has been clearly demonstrated, should share the cost of preserving it by compensating Brazil for any loss arising out of the cessation of the present method of exploitation.

21. Specific proposals should be submitted to the various agencies of the international community itself and to the representatives of international society at large.

22. International financing institutions and, in particular, the World Bank and International Monetary Fund, have supported and financed large-scale projects without paying sufficient attention to the harmful consequences of such projects for populations and for the Amazonian environment. Those agencies should assess such consequences before providing financial support.

23. The European Economic Community has granted loans (in particular for the construction of the Carajas plant) for the sole purpose of securing sources of supply for European industry, without any heed to the warnings given to it, as noted by Professor Ruellan, among others. The EEC must in future be more careful about the harmful effects of such projects in countries outside the EEC.

24. The rules of conduct applicable to transnational corporations, particularly those drawn up by ILO and OECD, call upon such corporations to conduct their activities in the interest of the populations and welfare of developing countries. Inadequate though these rules may be in their current form, they should in future be complied with. The United Nations Centre on Transnational Corporations, whose work is now in progress, should prepare clearer rules on the protection of populations and the environment of countries in which such corporations operate.

25. The maintenance of debt at its current level is intolerable, and appropriate remedies must be found. It is proposed that urgent measures should be taken to reduce and, if possible, eliminate Brazil's debt as part of a wider programme of debt relief for the third world in general.

26. Such relief, although desirable for heavily indebted countries, is not sufficient in itself. It is only a first step towards a far-reaching restructuring of the world economy with a view, in particular, to reversing capital flows and creating new flows to the developing countries.

27. In order to guarantee this process, it is essential for IMF to radically change its policy with regard to fulfilment of conditions. It should, in particular, give up imposing fiscal austerity on third world countries and stress the need to use new capital for the welfare of each country by ensuring that public authorities, corporations and banks observe human rights and comply with domestic and international demands for conservation of the environment.

28. Efforts must be made to remove the trade barriers with which Brazil and other third world countries have to contend, so that they can have access to European and North American markets on economically stimulating terms. Prices of basic commodities must be stabilized as part of a new international economic order.

29. An appeal is made to NGOs and associated movements to monitor Brazil's progress in affording complete protection to its various Indian populations, in observing human rights as proclaimed in the main instruments of international law, and in observing the rules and procedures for protection of the environment as laid down in international law, and to publish regular reports on those monitoring activities.